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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,925	11/16/2000	Shuji Ono	3562-0108P	2972

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Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church, VA 22040-0747

EXAMINER

MISLEH, JUSTIN P

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/712,925

Applicant(s)

ONO, SHUJI

Examiner

Justin P. Misleh

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 - 10, 14, 22 - 26, and 30.
Claim(s) withdrawn from consideration: 11 - 13, 15 - 21, 27 - 29, 31, and 32.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


**TUAN HO
PRIMARY EXAMINER**

Response to Arguments

1. Applicant's arguments filed 30 January 2007 have been fully considered but they are not persuasive.
2. Amendments to Claims 18 and 31 appear to strictly grammatical in nature and do not affect the scope of the claims. Accordingly, they will be entered.
3. However, Applicant argues, "Lyons does NOT teach or suggest limiting the depth range."
4. The Examiner respectfully disagrees with Applicant's position. In the Final Rejection (1 November 2006), the Examiner relied upon Lyons' figure 11 and column 11 (line 61) – column 12 (line 20) to teach limiting the depth range. In the cited portion, Lyons' states, "the zoom lens 65 is set to a narrow-angle field of view."
5. In the camera art, depth of field (depth range) generally known as the range of sharp focus in a photograph. Essentially, it is the nearest to the farthest object that you can expect to have sharp focus in your scene. Depth of field is controlled by at least 3 factors: the camera's iris (aperture), lens focal length (narrow-angle vs. wide-angle settings), and the distance of the subject from the camera. Using larger apertures, narrow-angled lenses (longer focal lengths), and decreasing the distance between your subject and the camera will all decrease the depth of field. Therefore, it is clear Lyons discloses limiting the depth range.
6. Applicant additionally argues, "Lyons does NOT teach or suggest extracting a partial image that contains objects only in a limited depth range set by a range setting unit from the original image data input."
7. The Examiner respectfully relied on Anderson for this feature.

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8. However, Applicant additionally argues, “Anderson does NOT teach or suggest extracting a partial image that contains objects only in a limited depth range set by a range setting unit from original image data input.”

9. The Examiner respectfully disagrees with Applicant’s position. Anderson teach, as shown in figures 1, 3A, 3B, 4B, an image processing apparatus including a range setting unit and an image extracting unit for extracting said main subject (e.g., 504) from among a plurality of objects (e.g., 502, 508, and 506) from within the set searching range (500). Anderson further teaches, as shown in figure 7 and as stated in column 8 (line 1) – column 9 (line 57), extracting the main subject (504) from the image data (500) based on depth distribution information (see figure 6A) indicating a distance to each of said plurality of objects included in said image data (see column 8, lines 1 – 13). Therefore, it is clear Anderson teaches extracting a partial image that contains objects only in a limited depth range set by a range setting unit from original image data input.